



Atty. Dkt. No. 038602/1082

144
9/4/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Axel ULLRICH et al.

Title: USE OF ORGANIC COMPOUNDS FOR THE INHIBITION OF FLK-1 MEDIATED VASCULOGENESIS AND ANGIOGENESIS

Appl. No.: 09/766,678

Filing Date: 01/23/2001

Examiner: Lorrainne Spector

Art Unit: 1647

RECEIVED
AUG 29 2002
TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated March 26, 2002, the due date for response having been extended four months to August 26, 2002, Applicants hereby make the following election, with traverse, as described below:

Applicants concurrently file herewith a Petition for Extension of Time under 37 C.F.R. § 1.136(a), with provision for the required fee, to extend the period for response for four month(s) up to, and including, August 26, 2002. If additional fees are necessary to prevent abandonment of this application, the Commissioner is hereby authorized to charge
Deposit Account No. 19-0741.

Applicants provisionally elect with traverse the claims of group VIII, claims 36-43, drawn to truncated Flk-1 proteins and recombinant methods of making such, and methods of treatment using such, for prosecution in the subject application.

Applicants, of course, reserve the right to file a divisional application covering the subject matter of the non-elected claims. Applicants also reserve the right to appeal the

08/27/2002 HGBREH1 00000021-09766678
01-PC-118 1440.10 OP

restriction requirement to the Commissioner if the requirement is made final in a subsequent Office Action.

Applicants traverse the restriction requirement because examining claims 36-43 presents no undue burden on the Examiner. According to MPEP § 803, "if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." According to MPEP § 808.02, in order to insist on a restriction, the Examiner must demonstrate at least one of: a separate classification, a separate status in the art or a different field of search. The Examiner has demonstrated none of the above three requirements.

Conclusion

In view of the foregoing, Applicants respectfully submit that the pending claims are in condition for allowance. An early notice to this effect is earnestly solicited. Should there be any questions concerning this application, Examiner Spector is invited to contact the undersigned at the number listed below.

Date

8/20/02

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5300
Facsimile: (202) 672-5399

Respectfully submitted,

By

Beth A. Burrous
Attorney for Applicant
Registration No. 35,087

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.